



ARIZONA STATE SENATE
Fifty-Sixth Legislature, First Regular Session

VETOED
FACT SHEET FOR H.B. 2754

criminal liability; enterprises

Purpose

Adds nongovernmental organizations in the definition of an *enterprise* for the purpose of determining criminal liability for an enterprise and subjects an enterprise to criminal liability for the offense of *participating in a human smuggling organization or operation*.

Background

A person commits *participating in a human smuggling organization or operation* by:

- 1) intentionally or knowingly organizing, managing, directing, supervising, coordinating, facilitating, leading, assisting, participating in or financing a human smuggling organization or operation that furthers the criminal objectives of the human smuggling organization or operation;
- 2) knowingly directing or instructing others to engage in violence or intimidation to promote or further the criminal objectives of a human smuggling organization or operation;
- 3) furnishing advice or direction in the conduct, financing or management of a human smuggling organization's or operation's affairs with the intent to promote or further the criminal objectives of a human smuggling organization or operation;
- 4) intentionally promoting or furthering the criminal objectives of a human smuggling organization or operation by inducing or committing any act or omission by a public servant in violation of the public servant's official duty; or
- 5) knowingly assisting a human smuggling organization or operation by transporting a person, or procuring the transportation for a person, with the intent to conceal the person from a peace officer or assist the person with fleeing from a peace officer who is attempting to lawfully arrest or detain the person ([A.R.S. § 13-2323](#)).

An *enterprise*, which includes any corporation, association, labor union or other legal entity, commits an offense if: 1) the conduct constituting the offense consists of a failure to discharge a specific duty imposed by law; 2) the conduct undertaken in behalf of the enterprise and constituting the offense is engaged in, authorized, solicited, commanded or recklessly tolerated by the directors of the enterprise in any manner or by a high managerial agent acting within the scope of employment; or 3) the conduct constituting the offense is engaged in by an agent of the enterprise while acting within the scope of employment and in behalf of the enterprise and the offense is either a misdemeanor or petty offense or the offense is defined by a statute which imposes criminal liability on an enterprise ([A.R.S. § 13-305](#)).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

1. Modifies the definition of *enterprise* within the context of the criminal code to include nongovernmental organizations.
2. Subjects an enterprise to criminal liability for the offense of *participating in a human smuggling organization or operation*
3. Becomes effective on the general effective date.

Governor's Veto Message

The Governor indicates in her [veto message](#) that H.B. 2754 has unintended consequences for organizations that support immigrants.

House Action

JUD 2/15/23 DP 5-3-0-0
3rd Read 3/1/23 31-28-1

Senate Action

MAPS 3/22/23 DP 4-3-0
3rd Read 4/5/23 16-14-0

Vetoed by the Governor 4/12/23

Prepared by Senate Research

April 19, 2023

ZD/sr